



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES J. MILLER and FRANCIS E. CHARLEVILLE, IV

Application No. 10/730,431

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on June 12, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A review of the file indicates that the "AMENDED APPEAL BRIEF UNDER 37 C.F.R. 41.37" filed December 21, 2005 is defective. The copy of the appealed claims contained in the Appendix to the brief is not correct since applicants submitted claims for an amendment that was filed June 24, 2005, in an after final rejection and said amendment was not entered by the examiner. The claims filed November 29, 2004 should be used for the claims appendix.

A Supplemental Appeal Brief is required for the claims appendix.

Accordingly, it is

ORDERED that the application is being returned to the Examiner:

- 1) to hold the Appeal Brief filed December 21, 2005, defective;
- 2) notify appellant to file a Supplemental Appeal Brief with a correct copy of claims for the Claims Appendix;
- 3) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplement Brief; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/gjh

THE MATTHEWS FIRM
2000 BERING DRIVE, SUITE 700
HOUSTON, TX 77057